

REMARKS / ARGUMENTS**I. General Remarks**

Claims 1-46 were pending at the time of the Office Action. Claims 1-5, 7-15, 18-27, and 29-32 were rejected and claims 6, 16, 17 and 28 were objected to.

Herein, Applicants have cancelled claims 8, 14, 30, and 33-46 and have amended claims 1, 4, 6, 15, 21, 24, 26, and 28. All the above amendments are made in a good faith effort to advance the prosecution on the merits of this case.

II. Affirmation of Provisional Election

Applicants affirm the provisional election made on July 28, 2005, to continue prosecution of claims 1-32 and to withdraw claims 33-46. Applicants retain the right to present claims directed to the non-elected invention(s), including claims 33-46, in another application, if desired.

III. Remarks Regarding Amendments to the Specification

Applicants have amended the Abstract to address the objections of Examiner.

Paragraphs 1 and 24 have been amended to supply the serial numbers required for paragraphs [0001] and [0024].

IV. Remarks Regarding Claim Objections

Claims 6 and 28 have been amended to clarify that “newberyite” and “struvite” are names of minerals, and not tradenames or trademarks.

V. Remarks Regarding Rejection of Claims Under 35 U.S.C. § 112, para. 2.

Claim 8 has been cancelled and is therefore no longer relevant to this rejection.

VI. Rejection of Claims Under 35 U.S.C. § 102(e)

Claims 1-5, 7, 9-15, 18-27 and 29-32 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,494,263 issued to Todd [hereinafter *Todd*]. Applicants respectfully traverse on the basis of the amended claims.

To form a basis for a § 102(b) rejection, a prior art reference must disclose each and every element as set forth in the claim. See MANUAL OF PATENT EXAMINING PROCEDURE § 2131 (2004). *Todd*, standing alone, does not contain each and every element of the claimed invention and as such, this reference cannot anticipate Applicants’ claims.

In particular, *Todd* fails to teach or suggest a “partially depolymerized starch derivative” as recited in Applicants’ independent claims 1 and 26. Applicants’ Specification defines the term “partially depolymerized starch derivative” as follows:

The modified starch compositions of the present invention provide enhanced fluid loss control when used in conjunction with ceramic bridging agents and preferably comprise modified starches. Generally, these starches may be a crosslinked ether derivative of a partially depolymerized starch and/or a partially depolymerized crosslinked ether derivative of a starch. In the former case, the starch is partially depolymerized prior to crosslinking and derivatizing the starch, whereas in the latter case the starch is first crosslinked and derivatized prior to partially depolymerizing the starch derivative. In either case, the molecular weight of the crosslinked starch derivative is decreased by the partial depolymerization of the starch polymer. *As used herein, the terms “partially depolymerized starch derivative” and “hydrolyzed starch derivative” are intended to mean the starch derivatives prepared by either method.* (emphasis added)

(*Present Application* at para. [0017].) Thus, Applicants’ Specification explicitly sets out the definition of the term “partially depolymerized starch derivative.” As *Todd* contains no teaching or suggestion of a “partially depolymerized starch derivative” as defined by Applicants’ Specification, *Todd* does not anticipate Applicants’ amended independent claims 1 and 26.

Thus, Applicants respectfully request withdrawal of the § 102(e) rejection as to independent claims 1 and 26 and correspondingly, as to dependent claims 2-5, 7, 9-15, 18-25, 27 and 29-32, which depend from one of these independent claims.

SUMMARY

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments, or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants believe that no fees are due in association with the filing of this Response. However, should the Commissioner deem that any fees are due, including any fees for extensions of time, the Commissioner is authorized to debit Baker Botts L.L.P. Deposit Account No. 02-0383, (*formerly Baker & Botts, L.L.P.*), Order Number 063718.0183, for any underpayment of fees that may be due in association with this filing.

The practitioner, named below, is authorized to file correspondence in the above-identified application pursuant to 37 C.F.R. § 1.34(a).

Respectfully submitted,

BAKER BOTTS L.L.P.

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